

Bill No. 30-07
Concerning: Buildings - Energy Efficiency
Revised: 4/22/2008 Draft No. 12
Introduced: November 20, 2007
Expires: May 20, 2009
Enacted: April 22, 2008
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmember Berliner, Council President Praisner, and Councilmembers Elrich, Floreen, and
Trachtenberg

AN ACT to:

- [[(1) require certain commercial, multi-family residential, and single-family residential buildings to meet certain ENERGY STAR standards;]]
- [[(2)]] (1) require the [[Director of the Department of Public Works and Transportation]] Sustainability Working Group to develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;
- [[(3)]] (2) require that each energy unit savings plan and energy cost savings plan include a plan for using an energy performance contract unless the [[Director]] Sustainability Working Group finds that the cost of using an energy performance contract outweighs the benefit; [[and]]
- [[(4) require a building owner to pay an Environmental Sustainability Fee if the building does not comply with certain energy efficiency and environmental design standards; and]]
- [[(5)]] (3) require certain residential buildings to meet certain ENERGY STAR standards; and
- (4) generally amend the law relating to buildings, energy, and environmental policy.

By adding

Montgomery County Code
Chapter 8, Buildings
Section 8-14B and 8-14C

By amending

Montgomery County Code
Chapter 8, Buildings
Article VII. Energy Efficiency and Environmental Design
Sections 8-48, 8-49, 8-50, and 8-51

[[By adding

Montgomery County Code

Chapter 8, Buildings
Article VIII. Energy Efficiency]]

By adding

Montgomery County Code
Chapter 8, Buildings
Section 8-53

By adding

Montgomery County Code
Chapter 8, Buildings
Article VIII. Energy Efficiency

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec. 1. Section 8-14B and Section 8-14C are added as follows:**

2 **8-14B. County buildings = energy unit savings plans, energy cost savings**
 3 **plans, and energy performance contracts.**

4 (a) Definitions. In this Section, the following words have the meanings
 5 indicated:

6 “County building” means a building which is owned or leased by the
 7 County.

8 [[“Department” means the Department of [[Public Works and]]
 9 Transportation.]]

10 [[“Director” means the Director of the Department or the Director’s
 11 designee.]]

12 “Energy baseline” means the amount of energy consumed each year
 13 by a County building based on historical metered data, engineering
 14 calculations, submetering of buildings or energy consuming systems,
 15 building load simulation models, statistical regression analysis, or any
 16 combination of those methods.

17 “Energy cost savings plan” means a plan to reduce a County
 18 building’s energy costs, including related operation and maintenance
 19 costs.

20 “Energy performance contract” means a contract which provides for
 21 the performance of services for the design, acquisition, installation,
 22 testing, operation, maintenance, or repair of an identified energy
 23 conservation measure or series of measures in a County building.

24 “ENERGY STAR rating” means the ENERGY STAR rating developed
 25 by the federal Environmental Protection Agency which reflects a
 26 building’s energy efficiency.

“Energy unit savings plan” means a plan to reduce the amount of energy used by a County building, as measured in kilowatt hours or British thermal units.

“National energy performance rating system” means the rating system developed by the federal Environmental Protection Agency under which a building may obtain the ENERGY STAR rating.

“Sustainability Working Group” means the Group defined in Section 18A-13.

(b) Requirements. The [[Director]] Sustainability Working Group must:

(1) develop an energy baseline, energy unit savings plan, and energy cost savings plan for each County building;

(2) submit an initial report to the County Executive and County Council by [[September 1, 2008]] January 15, 2009 which summarizes the energy baseline, energy unit savings plan, and energy cost savings plan for each County building; and

(3) submit an annual report to the County Executive and County Council by [[September 1]] January 15 of each year that summarizes the steps taken in the preceding fiscal year to implement the energy unit savings plan and energy cost savings plan for each County building.

(c) Energy performance contracts. Each energy unit savings plan and energy cost savings plan that the [[Director]] Sustainability Working Group prepares under subsection (b) must include a plan to use an energy performance contract unless the [[Director]] Sustainability Working Group finds that the cost of using an energy performance contract outweighs the benefit.

8-14C. Private buildings – incentives

(a) Study. The [[Director]] Sustainability Working Group must evaluate:

(1) options for creating incentives for the owners of commercial, multi-family residential, or single-family residential buildings to modify the buildings to increase their energy efficiency[.] and

(2) options to [[encourage builders of multi-family residential or single-family residential buildings to achieve]] minimize the impact on affordable housing of achieving the ENERGY STAR rating under the national energy performance rating system.

(b) Report. The [[Director]] Sustainability Working Group must submit a report to the County Executive and County Council by [[July 1, 2008]] January 15, 2009 regarding the [[Director]] Group’s findings and recommendations.

Sec. 2. The title to Article VII of Chapter 8 and Section 8-48, Section 8-49, Section 8-50, and Section 8-51 are amended as follows:

[ARTICLE VII. ENERGY EFFICIENCY AND ENVIRONMENTAL DESIGN.] Article VII. Energy Efficiency and Environmental Design.

8-48. Definitions.

In this Article, in addition to any term defined elsewhere in this Chapter [or in regulations adopted under this Chapter], the following words have the meanings indicated:

* * *

[[“ENERGY STAR rating” means the ENERGY STAR rating developed by the federal Environmental Protection Agency which reflects a building’s energy efficiency.]]

* * *

[[“*National energy performance rating system*” means the rating system developed by the federal Environmental Protection Agency under which a building may obtain the ENERGY STAR rating.]]

* * *

[[“*Professional engineer*” means an engineer who is licensed by the State of Maryland.]]

[[“*Temporary use and occupancy certificate*” means a certificate that authorizes the use and occupancy of a building for up to 18 months.]]

8-49. Standards and requirements.

(a) County buildings. Any County building must, in addition to any action required under Section 8-14A, achieve:

- (1) a silver-level rating in the appropriate LEED rating system, as certified by the Green Building Council;
- (2) a silver-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director; or
- (3) energy and environmental design standards that the Director identifies as equivalent to a silver-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director.

(b) Other covered buildings. Any other covered building must achieve:

- (1) a certified-level rating in the appropriate LEED rating system, as certified by the Green Building Council;
- (2) a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director; or

(3) energy and environmental design standards that the Director identifies as equivalent to a certified-level rating in the appropriate LEED rating system, as verified by the Director or a qualified person approved by the Director.

(c) [[Energy efficiency. In addition to complying with subsection (a) or (b), any covered building must achieve the ENERGY STAR rating under the national energy performance rating system.

(d)] Additions. However, for any building for which an application for all necessary building permits was filed before September 1, 2008, any later addition to that building must achieve the requirements of a subsection (a) or (b), whichever applies, [[and subsection (c)]] only if the addition would increase the building's:

(1) land coverage by at least 100%; and

(2) gross floor area by at least 10,000 square feet.

8-50. Building permits; [use-and-occupancy permit] [[use and occupancy certificates]].

(a) Design plans. The applicant for a building permit for a covered building must submit to the Department:

(1) design plans for the building which are likely to achieve the applicable standard under~~[[:]~~

~~[[A)]]~~ [Section 8-49] Section 8-49(a) or (b), whichever applies,

as certified or otherwise approved by the Green Building Council or verified by the Director or a qualified person designated by the Department; [[and

(B) Section 8-49(c), as verified by a professional engineer;]]

and

(2) any other document or information the Department finds necessary to decide whether the building will achieve the applicable [standard] ~~[[standards]]~~ standard under Section 8-49.

(b) Building permit. The Department must require compliance with Section 8-49 as a condition of any building permit issued for a covered building.

(c) Final use and occupancy certificate. The Department must not issue a final [certificate of] use and occupancy certificate for a covered building unless it finds that the building has achieved the applicable [standard] ~~[[standards]]~~ standard under Section 8-49.

~~[[~~(d) Temporary use and occupancy certificate. If a covered building has not achieved the applicable standards under Section 8-49 but the Department finds that a process is in place to achieve those standards within 18 months, the Department may issue a temporary use and occupancy certificate which is valid for up to 18 months.]]

~~[[~~(e) Environmental Sustainability Fee.

(1) If a temporary use and occupancy certificate expires before a covered building complies with the applicable standards under Section 8-49, the building owner must pay an Environmental Sustainability Fee that is equal to the cost of bringing the building into compliance.

(2) The fees collected under paragraph (1) must be used to fund programs that help mitigate the energy and environmental impacts of buildings.]]

8-51. Regulations.

The County Executive must adopt regulations under method (2) to administer this Article. Those regulations must specify:

- 159 (a) the LEED rating system, and any equivalent energy and
 160 environmental design standard, that applies to each type of covered
 161 building under [Section 8-49] Section 8-49(a) and (b).
- 162 (b) the process to verify that a covered building complies with any
 163 applicable standard under Section 8-49, including the types of persons
 164 who are qualified to verify compliance;
- 165 (c) any standards and procedures under which the Director may approve
 166 full or partial waivers of Section 8-49 when compliance would be
 167 impractical or unduly burdensome and the public interest would be
 168 served by the waiver; [and] and
- 169 (d) [[The methodology that the Department will use to determine the
 170 amount of the Environmental Sustainability Fee that must be paid
 171 under Section 8-50(e); and
- 172 (e)]] standards and procedures for any enforcement mechanism[, such as a
 173 performance bond,], such as a performance bond, that the Department
 174 finds necessary to accomplish the purposes of this Article.

175 **Sec. 3. [[Article VIII]] Section 8-53 is added to Chapter 8 as follows:**

176 **[[Article VIII. Energy Efficiency]]**

177 **[[8-53. Definitions.**

178 In this Article, the following words have the meanings indicated:

179 “Covered building” means a newly constructed:

180 (1) Single-family residential building; or

181 (2) Multi-family residential building which is:

182 (A) Not a covered building under Section 8-48; and

183 (B) Eligible to earn the ENERGY STAR rating.

184 “Department” means the Department of Environmental Protection.

185 “Director” means the Director of the Department or the Director’s designee.

186 “ENERGY STAR rating” means the ENERGY STAR rating developed by the
 187 federal Environmental Protection Agency which measures a building’s energy
 188 efficiency.

189 “Home Energy Rating System” or “HERS” means the energy efficiency rating
 190 system for residential buildings developed by RESNET.

191 “Qualified home energy performance rater” means an individual who:

192 (1) Is certified by RESNET as a home energy performance rater; or

193 (2) Meets other equivalent requirements approved by the Director.

194 “RESNET” means the Residential Energy Services Network.

195 “Performance path” means the process developed by the federal
 196 Environmental Protection Agency under which a building may achieve the
 197 ENERGY STAR rating if it:

198 (1) Achieves the applicable HERS index score; and

199 (2) Is verified and field-tested by a qualified home energy
 200 performance rater.

201 “Prescriptive path” means the process developed by the federal Environmental
 202 Protection Agency under which a building may achieve the ENERGY STAR
 203 rating if it:

204 (1) Complies with the applicable ENERGY STAR Builder Option
 205 Package; and

206 (2) Is verified and field-tested by a qualified home energy
 207 performance rater.]]

208 **[[8-54. ENERGY STAR standard.**

209 A covered building must achieve the ENERGY STAR rating under the
 210 performance or prescriptive path.]]

211 **[[8-55. Building permits; use and occupancy certificates.**

(a) Design plans. An applicant for a building permit for a covered building must submit to the Department:

(1) Design plans for the building that are likely to achieve the standard under Section 8-54, as certified by a qualified home energy performance rater; and

(2) Any other document or information the Department finds necessary to decide whether the building will achieve the standard under Section 8-54.

(b) Building permit. The Department must require compliance with Section 8-54 as a condition of any building permit issued for a covered building.

(c) Final use and occupancy certificate. The Department must not issue a final use and occupancy certificate for a covered building unless it finds that the building complies with Section 8-54.

(d) Temporary use and occupancy certificate. If a covered building does not comply with Section 8-54 but the Department finds that a process is in place to achieve compliance within 18 months, the Department may issue a temporary use and occupancy certificate which is valid for up to 18 months.]

(e) Environmental Sustainability Fee.

(1) If a temporary use and occupancy certificate expires before a covered building complies with Section 8-54, the building owner must pay an Environmental Sustainability Fee that is equal to the cost of bringing the building into compliance.

(2) The fees collected under paragraph (1) must be used to fund programs that help mitigate the energy and environmental impacts of buildings.]]

239 **[[8-56. Regulations.**

240 The County Executive must adopt regulations under method (2) to
 241 administer this Article. Those regulations must specify:

- 242 (a) Any process for becoming a qualified home energy performance rater
 243 that the Director finds is equivalent to the RESNET certification
 244 process;
- 245 (b) Any standards and procedures under which the Director may approve
 246 full or partial waivers of Section 8-54 when compliance would be
 247 impractical or unduly burdensome and the waiver would serve the
 248 public interest;
- 249 (c) The methodology that the Department will use to determine the
 250 amount of the Environmental Sustainability Fee that must be paid
 251 under Section 8-55(e); and
- 252 (d) Standards and procedures for any enforcement mechanism that the
 253 Department finds necessary to accomplish the purposes of this
 254 Article.]]

255 **8-53. ASHRAE/USGBC/IESNA standards.**

- 256 (a) Definitions.
- 257 “ASHRAE/USGBC/IESNA Standard 189.1” means the standard for
 258 high-performance green buildings developed by the American Society
 259 of Heating, Refrigerating and Air-Conditioning Engineers, the U.S.
 260 Green Buildings Council, and the Illuminating Engineering Society of
 261 North America.
- 262 (b) The Sustainability Working Group must:
- 263 (1) evaluate the costs and benefits of adopting the ASHRAE/
 264 USGBC/IESNA Standard 189.1; and

(2) recommend to the County Executive and County Council by January 15, 2009, whether the County should adopt the ASHRAE/USGBC/IESNA Standard 189.1, particularly the energy efficiency section, or any other building performance standard.

[[Sec. 3. Applicability; initial regulations.

- (a) Section 8-49(c), as added by Section 2 of this Act, applies to any covered building, other than a County building, for which a building permit application is filed on or after January 1, 2009.
- (b) Section 8-49(c), as added by Section 2 of this Act, applies to any County building for which design funding is first included in the appropriate capital budget for fiscal year 2009 or any later fiscal year, or, if design funding is not directly included in the capital budget, for which a building permit application is filed on or after January 1, 2009.
- (c) Section 8-54, as added by Section 3 of this Act, applies to any covered building for which a building permit application is filed on or after January 1, 2009.
- (d) By March 15, 2008, the County Executive must adopt, and submit to the Council under County Code Section 2A-15, regulations required by Section 8-51, as amended by Section 2 of this Act, and Section 8-56, as added by Section 3 of this Act.]]

Sec. 4. Article VIII is added to Chapter 8 as follows:

Article VIII. Energy Efficiency

8-54. Definitions.

In this Article, the following words have the meanings indicated:

“Covered building” means a newly constructed:

- (1) single-family residential building; or

(2) multi-family residential building which is:

(A) not a covered building under Section 8-48; and

(B) eligible to earn the ENERGY STAR rating.

“Department” means the Department of Permitting Services.

“Director” means the Director of the Department or the Director’s designee.

“ENERGY STAR rating” means the ENERGY STAR rating developed by the federal Environmental Protection Agency which measures a building’s energy efficiency.

“Home Energy Rating System” or “HERS” means the energy efficiency rating system for residential buildings developed by RESNET.

“Qualified home energy performance rater” means an individual who:

(3) is certified by RESNET as a home energy performance rater; or

(4) meets other equivalent requirements approved by the Director.

“RESNET” means the Residential Energy Services Network.

“Performance path” means the process developed by the federal Environmental Protection Agency under which a building may achieve the ENERGY STAR rating if it:

(1) achieves the applicable HERS index score; and

(2) is verified and field-tested by a qualified home energy performance rater.

“Prescriptive path” means the process developed by the federal Environmental Protection Agency under which a building may achieve the ENERGY STAR rating if it:

(1) complies with the applicable ENERGY STAR Builder Option Package; and

(2) is verified and field-tested by a qualified home energy performance rater.

8-55. ENERGY STAR standard.

A covered building must achieve the ENERGY STAR rating under the performance or prescriptive path.

8-56. Building permits; use and occupancy certificates.

(a) Design plans. An applicant for a building permit for a covered building must submit to the Department:

(1) design plans for the building that are likely to achieve the standard under Section 8-55, as certified by a qualified home energy performance rater; and

(2) any other document or information the Department finds necessary to decide whether the building will achieve the standard under Section 8-55.

(b) Building permit. The Department must require compliance with Section 8-55 as a condition of any building permit issued for a covered building.

(c) Final use and occupancy certificate. The Department must not issue a final use and occupancy certificate for a covered building, if a use and occupancy certificate is otherwise required, unless it finds that the building complies with Section 8-55.

8-57. Regulations.

The County Executive must adopt regulations under Method (2) to administer this Article. Those regulations must specify:

(a) any process for becoming a qualified home energy performance rater that the Director finds is equivalent to the RESNET certification process;

(b) any standards and procedures under which the Director may approve full or partial waivers of Section 8-55 when compliance would be

impractical or unduly burdensome and the waiver would serve the public interest; and

- (c) standards and procedures for any enforcement mechanism that the Department finds necessary to accomplish the purposes of this Article.

Sec. 5. Applicability; initial regulations.

- (a) (1) Except as provided in paragraph (2), Section 8-55, as added by Section ~~[[2]]~~ 4 of this Act, applies to any covered building for which a building permit application is filed on or after ~~[[April 22, 2009]]~~ January 1, 2010.

- (2) The Director of the Department of Environmental Protection may suspend the applicability of Section 8-55 until ~~[[July 22, 2009]]~~ April 1, 2010 if:

- (A) the Director certifies by ~~[[January 15, 2009]]~~ October 1, 2009, that an alternative approach would:

- (i) achieve the same energy efficiency goals as Section 8-55; and

- (ii) be less costly to builders and buyers of covered buildings~~[[.]]~~; or

- (B) the Sustainability Working Group finds that there is an insufficient number of qualified home energy performance raters doing business in the County.

- (b) By ~~[[January 15, 2009]]~~ October 1, 2009, the County Executive must adopt, and submit to the Council under County Code Section 2A-15, regulations required by Section 8-57, as added by Section ~~[[2]]~~ 4 of this Act.

372 *Approved:*

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375	Michael J. Knapp, President, County Council	Date
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376 *Approved:*

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	Isiah Leggett, County Executive	Date
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378 *This is a correct copy of Council action.*

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	Linda M. Lauer, Clerk of the Council	Date
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